THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.2249 of 2007

Between:

Smt.T.G.Vinaya Sheela and others.

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PETITIONERS

and

The Vice Chairman and Managing Director and others.

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RESPONDENTS

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ORDER:

Heard the learned counsel for the petitioners as well as

the learned Standing Counsel for the respondents.

It is the case of the petitioners that the 1st petitioner is the wife, 2nd petitioner is the son and the 3rd petitioner is the daughter of Cheekurumalli Vijaya Prasad, who was working as Senior Accountant in the respondents' office since 06-02-1986. But, however, he has not been attending office from 03-03-2003 and his whereabouts are not known to the petitioners. Therefore, the 1st petitioner gave a complaint on 11-05-2003 to the Station House Officer, Musheerabad Police Station. Basing on the said complaint, a case in Cr.No.151 of 2003 was registered under "Man Missing".

It is further stated that the husband of the 1st petitioner availed house building advance and other advances from the respondents Corporation by mortgaging the house property, vide registered document No.3857 of 97, dated 20-10-1997, in respect of the house bearing No.4-9-44/2, plot No.121 (part) admeasuring 150 sq. yards at Bagh Hayathnagar village, Hayathnagar Mandal, Ranga Reddy District under L.B.Nagar Municipality. It is stated that the principal amount was Rs.1,43,643/- and interest upto 31-10-2005 was Rs.1,19,400/-.

It is further stated that the name of the 1st petitioner was entered in the service register of her husband as dependant and there is no dispute with regard to the fact that she is the wife of Cheekurumalli Vijaya Prasad.

It is further stated that the 1st petitioner wants to release the mortgaged documents by paying entire loan

amount. However, the respondents are insisting upon to produce the Legal Heir Certificate. It is stated that no Legal Heir Certificate is required as there is no claim from any third party.

Having regard to the facts and circumstances of the case, the respondents are directed to conduct enquiry with reference to the concerned service register of Cheekurumalli Viajaya Prasad. On such enquiry, if they come to the conclusion that the 1st petitioner is the legally wedded wife of Cheekurumalli Viajaya Prasad and the petitioners are only entitled to succeed the property in question, the respondents, without insisting upon the Legal Heir Certificate, shall release the mortgaged documents on payment of the entire loan amount.

However, this order will not confer any right on the petitioners with regard to their right and title over the said property till seven years is expired from the date of missing. If the missing person found alive, he will only have absolute rights over the property.

Accordingly, the writ petition is disposed of. There shall be no order as to costs.

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08-02-2007

Prv